should be considered in defining a relevant market -- that is, each relevant market should have a customer dimension. In order to deliver traffic to or from a large business customer, an IXC may choose to purchase switched access from the LEC, or it may establish a direct connection between the end-user's location and its Point-of-Presence using its own facilities or using special access facilities purchased either from a LEC or an alternative provider.[66] In any case, the service ultimately provided to the end-user is switched interexchange service.[67] For these large end-user locations, special access and switched access are close substitutes. However, for an end-user that generates only a small volume of interstate traffic, special access may not be a feasible alternative to switched access, because the customer's traffic volume is insufficient to justify a special access service.[68]

If a special access direct connection is established for a large end-user, that end-user still retains the option of purchasing local dialtone service from a

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[66] This access will most often be ordered by the IXC, but may be ordered directly by the end-user. In either case, it is the end-user's volume, rather than the identity of the IXC, that primarily determines the opportunity to substitute special access for switched access.

[67] Interexchange services based on switched access include MCI's Friends and Family and AT&T's Message Telecommunications Service ("MTS") and some Pro-WATS options. Switched interexchange services based on special access include Megacom. The function provided to the end-user is nearly identical, and these services are highly substitutable for one another.

[68] Smaller volume customers may have opportunities to utilize special access when they are located in such a way as to facilitate the aggregation of traffic from several such customers. This may occur in a multi-tenant building, an industrial park, or a university campus.

LEC or competitive provider.[69] For large end-users, the choice of an access provider is separable from the choice of a local service provider. In contrast, a small end-user is more likely to use the same network facility for both local service and interstate access, since it would be economically difficult to justify a separate link for access alone. For these small customers, the choice of local service usually is not separable from the choice of access service.

For similar reasons, large and small end-users may have different alternative sources of supply open to them. For example, suppose that a CAP offers fiber-based high capacity services throughout a geographic area. The CAP naturally will target customer locations large enough to justify a high capacity service. Therefore, large end-users will have a substitute available for both LEC special and switched access services. However, a small customer, located in the same area, may not have any access alternative available, either because the CAP does not serve small customers or because the CAP's high capacity service would not be economical for those customers. If the alternative access provider is a cable company or a Personal Communications Services ("PCS") provider, then the substitution opportunities may be similar for both small and large end-users. Such carriers may offer local dialtone, switched access, and special access to both small and large volume end-users.

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[69] Of course, if the special access provider is also a dial-tone provider, both services may be obtained from the same carrier.

Because the end-user volume of interexchange traffic affects the availability of alternatives and the substitutability of those alternatives, GTE proposes that customer size should be one of the dimensions that defines a relevant market.[70] In general, large end-users will have an alternative available when a CAP offers service in an area. This alternative would be substitutable for either LEC switched or special access. For these customers, the availability of local exchange alternatives would not be a necessary condition for the availability of access alternatives. Small end-user locations also will have alternatives available when a provider of local exchange service, such as a cable company or PCS provider, offers service in an area.

B. The relevant market should be based on a combination of geographic, service and customer dimensions.

A relevant market should be based on a combination of the three dimensions described *supra*. It would represent a logical grouping of substitutable services provided to a given customer set in a given geographic area. Once a LEC has made a showing that the competitive criteria have been met for that market, streamlined regulation should apply to all services within that market. In all cases, the geographic dimension would be a grouping of wire center areas, following the guidelines discussed *supra*. The service dimension could be a single service category, or a logical grouping of substitutable services,

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[70] Again, this is not meant to suggest that the end-user would be the customer of record for the access services provided to a given end-user location. In most cases, an IXC would be the access customer.

that generally would include services from more than one service category. In some cases, when customer size does not affect substitution opportunities, no purpose would be served by distinguishing among the customers to whom service is provided in a geographical area. The customer dimension then would simply be all customers that purchase the service. However, it often would be useful to distinguish between service provided to large end user locations and the same service provided to small end user locations.

In principle, a LEC should be able to select the combination of the three dimensions to define a relevant market. The LEC would have to explain why the combination chosen is reasonable. However, the Commission can simplify this process by recognizing, when it establishes its adaptive framework, certain logical groupings of the three dimensions. When a LEC chooses to make a showing based on one of these recognized "standard" groupings, it should not have to justify its choice of the relevant market. This would greatly simplify the administration of the adaptive framework by minimizing contention over the market definition which would otherwise occur for each showing. At the same time, a LEC could justify a different grouping of the three dimensions, if necessary, to capture the conditions in particular markets.

Taking the three dimensions together, the simplest relevant market would include the services in a single service category, for all customers that purchase these services, within a specific geographical area. In addition, GTE suggests recognition of several additional "standard" groupings. A service category is generally too small to define a relevant market. Further, a customer's opportunity to substitute services across categories depends in part on the customer's size. There is a natural interaction between the service dimension and the customer dimension, and certain basic combinations of these two dimensions, combined with the geographic dimension, would usefully define a relevant market.[71]

Specifically, GTE proposes three examples of logical groupings which should be recognized as defining a relevant market. The first grouping is the interoffice transport market. If alternative carriers can address a LEC's wire centers in a geographic area, then interoffice transport to and from these addressable offices have substitutes available. Therefore, a single showing should apply to this segment. Since interoffice transport comprises aggregated traffic from both large and small end-users, the customer dimension for this market would simply be all customers in the wire center that generate transport demand.[72]

The second logical grouping is the large customer market. If alternative carriers can address a sufficient proportion of the large end-users within a geographic area, then a single competitive showing should apply to all

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[71] GTE refers to a logical combination of the service and customer dimensions as a "market segment."

[72] This segment would include all interoffice special access transport, and dedicated switched transport. Subject to a showing with respect to the availability of tandem signaling, it also would include tandem-switched transport and tandem switching. *See* discussion of competitive showing *infra*.

substitutable services provided to these end users. This would include special access channel terminations, as well as local switching and CCL charges applying to traffic originating from or terminating to those customers' locations.[73] This logical grouping would reflect the fact that switched and special access arrangements are substitutable for one another when the end user is a large customer.

The third logical grouping is the small customer market. If alternative carriers can address a sufficient proportion of small end-user locations within a geographic area, then a single competitive showing should apply to all substitutable services provided to and from those locations. This would include local switching and CCL charges applying to traffic originating from or terminating to those locations.[74]

GTE's proposal would allow the Commission to establish in advance "standard" definitions of relevant markets. These recognized groupings would capture the substitutability of services more accurately than it would be possible

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[73] It also would include any interoffice special access associated with large customers. It is likely that if a sufficient number of large end user locations in the area can be addressed, that the wire center itself can also be addressed. Thus, switched interoffice transport should also be included when a LEC does a large customer showing.

[74] If alternative carriers address wire center locations, large end-users, and small end-users in the geographic area, then a LEC may be able to make a single showing which would include all three of the market segments defined here. It is most likely that all three markets will be addressable if a ubiquitous local service provider is operating in the area. It is possible, however that a cable network, for example, could address most residence customers in area, but only a smaller proportion of business customers.

to do by defining relevant markets purely on the basis of service categories. Since services would be grouped broadly across several categories, the use of these definitions would reduce the number of showings the Commission would have to review. By recognizing certain "standard" groupings in advance, the Commission could greatly reduce the number of disputes over market definition that would otherwise arise in the context of individual showings. At the same time, the approach would be flexible enough to accommodate market definitions which, for good reason, do not fit the "standard" mold.

C. The Commission should permit LECs to opt for a different price cap basket structure.

GTE proposes a definition of relevant markets that is compatible with the structure of price cap baskets and categories outlined *supra*. If a LEC justifies a showing for a price cap service category, that category should be removed from price caps for the given geographic area. If a LEC justifies a showing for one or more of the "standard" market definitions proposed here, that combination of services should be removed from price caps -- again for a geographic area. In most cases, this would involve some or all of the demand from several service categories. For example, in the case of the large customer market, it would involve removing the demand associated with large end-users from the local switching and CCL categories.

However, an alternative price cap basket structure could be structured to align the price cap baskets and service categories more closely with market segments. This alternative structure is displayed in Attachment 2. It would establish baskets for Transport, Large Customer, Small Customer, Interexchange, Video Dialtone and Other.

The Large Customer basket would include switching and common line elements for services provided to and from large end users. The Small Customer basket would include the same elements for service to and from small end-users. The Other basket includes the elements which would comprise the Information and Data Base service categories included in the Switching basket as GTE proposes *supra*. GTE proposes that price cap LECs should have the ability to recast their demand and prices into this alternative basket structure. This alternative basket structure would simplify the process of streamlined regulation by allowing LECs to remove groups of service categories from price caps. These categories would be more closely aligned with the "standard" market definitions for which LECs could make showings.

The alternative structure would focus price cap protection separately for each market segment. For example, the prices for services provided to small customers would be capped independently of the prices for services provided to large customers. This means, for example, that a price reduction or discount offered for services in the Large Customer basket would not create any "headroom" which would allow a LEC to raise rates to smaller customers, since those customers' services would be in a separate basket. The Commission adopted a similar basket structure in its price cap plan for AT&T, grouping the services provided to residence and small business customers in one basket and those provided to larger businesses in another basket.[75]

However, GTE recommends that this alternative basket structure be optional. Because the alternative structure represents a significant change, it should not be imposed on all LECs as a condition for adopting price cap regulation. Many LECs currently do not have the capability of measuring large and small end-user demand separately, which would be necessary in order to implement the optional structure. Further, for those LECs that choose to make their competitive showings on the basis of price cap service categories, the effort of changing to the alternative price cap basket structure may not be justified.

D. The Commission should establish criteria to serve as triggers for streamlined regulation.

The *SFNPRM* seeks comment (at ¶133) on criteria to determine when the services in a relevant market should be removed from price caps and afforded streamlined regulation. The criteria should provide an indicator that the LEC has lost market power to such an extent that price cap regulation is no longer necessary to protect consumers.

Drawing on its experience in analyzing AT&T's markets, the Commission outlines four areas in which such indicators might be developed – supply

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[75] *SFNPRM* at ¶131. The *SFNPRM* notes that LEC access services are primarily wholesale services, while AT&T's interexchange services are primarily retail in nature. However, GTE points out that the ability to substitute one access service for another is influenced more by the characteristics of the end user location than by those of the IXC.

responsiveness, demand responsiveness, market share and pricing behavior. GTE agrees that the Commission's previous experience with AT&T is useful in evaluating LEC markets. However, there are several important differences between access markets and interexchange markets. For this reason, even though much of the basic framework is useful, the specific application would be quite different,

Further, the *Second Notice* seeks to establish an orderly framework to do what the Commission has previously done on an *ad hoc* basis for AT&T. In part, this is the result of learning by doing. Also, it reflects, in part, a recognition that because LEC access markets are more numerous, the assessment of market power must be simple enough to be applied repeatedly. Thus, the criteria should be based on indicators of market power, rather than on attempts to measure it precisely, which would be the subject of debate every time a showing is proposed.

1. Addressability should be the indicator of supply responsiveness.

A crucial determinant of market power is the elasticity of alternative supply of a substitutable service.[76] The *SFNPRM* (at ¶141) proposes that relative

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[76] If customers regard the alternative service as a close substitute, the elasticity of alternative supply will generally determine the firm elasticity of demand faced by the incumbent LEC. If no alternative is available, the firm demand elasticity will be low, and will approximate the industry elasticity for the service. If an alternative is available, the firm elasticity will generally be high. For these reasons, GTE believes that supply responsiveness, as

supply capacity should be used as an indicator of the elasticity of alternative supply. The competitors' capacity to offer alternatives to customers in the relevant market in an indication that the market should be subject to streamlined regulation. This conclusion is consistent with the Justice Department's *Merger Guidelines*, which suggest that, for markets with the characteristics of the interstate access market, relative capacity is the appropriate measure of market power.[77]

The issue, then, is what indicator should be used to evaluate LEC competitors' capacity to supply access markets. The *SFNPRM* seeks comment (at ¶139) on the appropriate supply measure and discusses addressability – the measure proposed in *USTA's Petition*. GTE believes that addressability is the appropriate indicator of supply elasticity.

In its evaluation of the interexchange market, the Commission considered aggregate measures of capacity for AT&T and its competitors.[78] This was reasonable in the context of the interexchange market, because the

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measured by addressability, is the most important indicator of market power.

77 "Physical capacity or reserves generally will be used if it is these measures that most effectively distinguish firms." U.S. Department of Justice, *Merger Guidelines*, June 1984 at 25-26. In the *Guidelines'* terms, this is the case in markets where products are relatively homogeneous and product differentiation is not strong – as is the case in the wholesale market for access.

78 *See SFNPRM* at ¶140.

interexchange market is a single national market and interexchange supply capacity is fungible to a certain degree among routes.

GTE does not recommend this approach for access markets. It would be burdensome to collect data on relative units of capacity placed by each access competitor. It also would be necessary to perform these analyses for every access market, not one single national market; and it would be difficult to compare capacity measures of different technologies. Even if it could be done, this measure would not be useful as it would only reflect the total cross-section of capacity available, not the competitors' ability to use that capacity to reach customer locations. Most access competition comes from carriers using technology which, once placed, has a very high level of capacity.[79] In several access markets today, CAPs already have enough capacity to serve the entire market. GTE submits that the Commission should not attempt to measure units of capacity, but should assume that a facilities-based competitor has sufficient capacity to serve the markets it can reach.[80]

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79 Fiber facilities can easily be upgraded to higher capacity levels by changing the electronics. Further, initial installation of a digital switch puts in-place the software and the majority of the hardware that would be required to serve the switch's maximum line capacity. Only minor hardware additions are required to expand the initial line capacity. In many states, a local competitor is able to serve most of the state using a single switch.

80 There may be cases where exceptions would have to be made. For example, if a LEC based a showing for the small customer segment entirely on the presence of wireless competitors, it might be reasonable for the Commission to ask for evidence that these firms could supply a substantial portion of the market.

The most significant limitation on a competitor's ability to supply a customer is its ability to reach the customer.[81] Therefore, the most reasonable measure of the proportion of demand in an access market that competitors have the capacity to serve is the proportion they have the ability to reach -- this is addressability.

The *Second Notice* draws a distinction (at n.207) between addressability and supply elasticity. As the *SFNPRM* notes, addressability considers demand which a provider could serve on request by extending its facilities. For this reason, addressability is a conservative measure. The *SFNPRM* correctly points out that supply elasticity includes additional capacity that could easily be added by competitors and new entrants as prices rise. Addressability will capture some of this capacity, depending on the assumptions that underlie the development of an addressability measure. In essence, this depends on how the addressability measure defines the market to which a competitor will extend its facilities. The dividing line the SFNPRM draws between capacity in-place and potential capacity is analogous to the dividing line between addressability and contestability. Any real-world measure of addressability will include some potential capacity.

In recent LEC examples of addressability showings, the analysis has focused on specific alternative facilities that the LEC had identified through its

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[81] Note that the availability of LEC facilities on an unbundled basis gives access competitors another way to reach the customer.

market research. The area in which a customer could obtain service from the competitor (the "footprint") was estimated based on assumptions regarding the distance the carrier would be willing to extend facilities from its existing backbone network. In this approach, the only "potential" capacity measured is the minimal extension assumed from the backbone network. However, GTE does not propose that addressability showings generally should be done in this manner. This method places a burden on the LEC to discover the location of competitors' facilities. Further, since the LEC will not have full knowledge, the showing will tend to underestimate the addressable area.

Instead, GTE proposes that access providers should be required to report the areas where they make their services available.[82] In developing the addressability measure, the LEC would use this area as the competitive "footprint." Under this method, the focus of the analysis would still be on facilities-based carriers, but it would not explicitly examine where the facilities are located. It would be based on the area where competitors offer to provide service. Instead of making assumptions about the competitor's willingness to extend facilities from a backbone network, it would operate on the assumption that, given demand, the competitor would extend facilities to support its offer of service.[83]

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[82] *See* discussion *infra*. *See also* USTA's Comments in the instant proceeding, Attachment 8.

[83] The mix between "actual" and "potential" capacity captured by the addressability measure will, therefore, depend on the choices the

GTE proposes that, in order to demonstrate the competitors' ability to supply, a LEC should show that customers representing 25 percent of the LEC's demand in the relevant market is addressable.[84] Alternatively, the LEC could choose to base its showing on the total demand in the market, and not just its own. While this alternative would require the LEC to estimate its competitors' demand, it would provide a useful option for LECs in markets where much of the addressable demand has already been lost to a competitor.

A system of streamlining based on addressability would provide strong protection against the possible anticompetitive behaviors discussed in the *Second Notice*.[85] A LEC market would be streamlined only when a significant portion of the market had been shown to have competitive alternatives available. This would ensure that customers in these markets would be protected against unreasonable rate increases. Because the showing would be based on the presence of facilities-based competitors, the Commission could ensure that the

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competitor has made between placing facilities in advance, and extending facilities, in order to meet demand in its serving area.

84 In this analysis, the numerator would be the demand of customers within the subset of the relevant market that lies within the competitive "footprint." The denominator would be the LEC's total demand for the relevant market. If the demand is measured in different units, a suitable common measure could be used, such as DS-1 equivalents. LECs should also be able to use a proxy for demand, such as relative lines or land area, since these will tend to produce conservative estimates.

85 For a more detailed discussion of these points, *see* GTE's Comments, CC Docket No. 94-1, filed May 9, 1994, Attachment A, *Regulatory Reform for Local Exchange Carriers: Competition through Regulatory Symmetry*, by Dr. Mark Schankerman. ("*Schankerman*")

LEC would find predation to be an unprofitable strategy. Even if it priced below cost, the LEC could not drive out the facilities that had already been placed. Similarly, this approach would provide assurance that the LEC could not profitably engage in a vertical price squeeze, since the competitors would be able to reach a significant portion of the market using their own facilities.[86]

2. The Commission should establish a criterion based on demand responsiveness.

In order to affect the elasticity of demand faced by the LEC, the alternative supply which the addressability standard measures must be for services which customers regard as substitutable for LEC services they are purchasing today. Therefore, a showing of demand responsiveness should consist of a demonstration that the alternative services are viewed as substitutes by consumers.

While GTE urges the Commission to adopt a simple, well-defined addressability standard for supply responsiveness, there does not appear to be an equivalent showing of demand responsiveness that the Commission can define in detail and in advance. Each LEC would have to assemble evidence to show that the services it uses in its addressability showing are acceptable to consumers. GTE believes that ample evidence on this point would be available.

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86 Further, since facilities would already be in-place throughout much of the area, any attempt at a price squeeze would simply encourage competitors to extend their own facilities more rapidly.

The access markets in question primarily involve wholesale services whose characteristics are well defined. Each new provider and relevant market showing will not be a new experience unrelated to any other.

In the case of AT&T, not only was the Commission plowing new ground, it was examining a single national market, so there was no other market which could be used as a point of reference. In contrast, each showing for an access market will be able to draw upon the experience of previous showings for other markets. For example, if business customers accept MFS's DS-3 service as a substitute for NYNEX's in New York, it is reasonable to believe that customers in Tampa will accept a CAP's DS-3 service as a substitute for GTE's. If residence customers accept Time Warner's local service as a substitute for BellSouth's in Atlanta, it is reasonable to believe that customers in other cities will also accept similar services from cable firms. It should not be necessary to gather new experience on these points in every relevant market.

3. The Commission should not adopt a standard based on market share.

The Commission should not use market share as one of its criteria. Such an approach would make the Commission's market power test inaccurate, and it would prevent the adaptive framework from achieving its goals.

First, as the *SFNPRM* observes (at ¶143), market share is not a determinant of market power. High market share "does not necessarily confer market power. A company that enjoys a very high market share will be constrained from raising its prices above cost if the market is characterized by high supply and demand elasticities." (*id.*) GTE agrees with the Commission's assessment of market share. The analysis of market power should focus on supply and demand responsiveness, using the measures discussed *supra*.

Second, the use of market share as a trigger predetermines the outcome of the competitive process, effectively reserving a portion of the market for a new entrant. This would blunt the efficiency incentives the Commission seeks to create.[87] It could even create an incentive for the incumbent to lose customers to the entrant.[88] It would also prevent the adaptive framework from sending the appropriate pricing signals for entry and investment decisions, by both the incumbent and the potential entrants.

Third, market share reflects choices customers made in the past, rather than the choices they have available today. Thus, a market share approach will always build into the system a lag, during which entrants will be protected from the incumbent. Finally, attempting to gather data to support a market share determination would be extremely complex. The necessary reporting would be a burden on all parties, and the results of any feasible reporting system are likely to

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[87] *See Schankerman* at 19-20.

[88] *See* Schmalensee, Richard, and William Taylor, *Pricing Flexibility for Interstate Carrier Access Services*, USTA's Comments in the instant proceeding, Attachment 1, p.25.

be inaccurate.[89] The reporting that would be required to support an addressability standard, in contrast, would be simple and minimally burdensome.

If the Commission includes market share as a possible indicator, uncertainty also will be introduced into a process which, in order to generate accurate expectations to guide decision-making, should be as predictable as possible. A LEC should know that it will be able to make a successful showing if it can meet the criteria for supply and demand elasticity. The Commission should make this point clear in any plan it adopts, even if it does expect to review available numbers on market share.

4. A competitive showing should not depend on evidence of below-cap pricing over time.

The *SFNPRM* seeks comment (at ¶145) as to whether the Commission should consider evidence that a LEC has priced below the price cap ceiling as evidence that the LEC's market should be streamlined. Even though GTE has priced below its cap to a greater extent than any other price cap LEC during the period the price cap plan has been in effect, GTE cannot support this criterion. Some information may be gleaned by examining below cap pricing, *e.g.*, if a LEC prices below its cap, it demonstrates that a market constraint is operating in such a way as to render the price cap constraint non-binding. However, there are two difficulties in making use of this information.

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[89] *See* GTE's Comments in CCB-IAD 95-110, *Access Provider Survey*, filed December 11, 1995.

First, as the *SFNPRM* notes *(id.),* pricing at the cap does not necessarily indicate that a LEC has market power. The level of the PCI may be at or below the market price. Further, there are several features of the price cap plan that have served to inhibit rate reductions. Therefore, it would be inappropriate to condition streamlined regulation on evidence of below-cap pricing.

Second, and most importantly, the streamlining process must be as simple and predictable as possible. This will minimize administrative burdens and provide reasonable expectations for all market participants – LECs and competitors – so that they can predict with some accuracy whether a relevant market can pass the test.

As the *SFNPRM* suggests (*id.*), below-cap pricing over time may provide additional evidence of competitive pressure in markets with high demand and supply elasticities. However, GTE submits that there should be clear thresholds for the supply and demand evidence. If these are met, the market should be streamlined. If the rules are structured in this way, it is not clear what role any pricing evidence would play, except to confirm a finding that would be made anyway. In cases when the supply showing is just below the threshold, or when the demand evidence is not clear, it may be useful for the Commission to turn to the pricing evidence.

E. Relevant markets found to be competitive should be removed from price caps and subject to streamlined regulation.

The *SFNPRM* proposes (at ¶129) to apply streamlined regulation to relevant markets that meet the competitive criteria discussed *supra*. The rates for services in these markets would be removed from price caps. Tariffs for such services would be presumed lawful, filed on 14 days' notice and without cost support.

GTE agrees that this treatment is appropriate. As the Commission notes *(id.),* it would retain its ability to review tariffs, to require cost support in specific cases, to reject tariffs that are unlawful and to investigate tariffs. In addition, the complaint process would remain in place as a way of evaluating abuses.

F. In markets subject to streamlined regulation, LECs should be permitted to offer services on a contract basis.

GTE agrees with the *SFNPRM* proposal (at ¶148) that a LEC should be permitted to offer contract prices for any access service in relevant markets that have been made subject to streamlined regulation. Contracts are widely used by other firms, including those with which the LECs must compete.[90] Contract carriage would increase the options available to consumers in streamlined markets, and would allow LECs to tailor service packages to meet customers' individual needs. The same terms would be available to any similarly situated customer in the same market. In any event, in markets shown to be competitive, LECs will lack the market power to maintain unreasonable differences in rates among customers.

By permitting LECs to offer contracts, the Commission would also encourage both LECs and other providers to compete more vigorously for

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[90] *See SFNPRM* at n.226.

customers' business. If a LEC cannot provide contract tariffs, competitors will know in advance the LEC's best bid for any customer, since it will be the generally tariffed rate. Knowing the price they must beat, competitors will have no incentive to bid significantly below that level. By removing this asymmetry, the Commission can inject a healthy degree of uncertainty into the bidding process that will generate better prices for consumers.

GTE believes that the procedure suggested for filing contract-based tariffs under streamlined regulation is reasonable.[91] However, GTE recommends that a LEC filing such a tariff should be able to protect proprietary LEC or customer information.

G. A LEC seeking streamlined treatment should file a proposed change to its market classification plan, supported by a competitive showing.

The *SFNPRM* seeks comment (at ¶151) on the appropriate procedure for implementing streamlined regulation in a given area. As markets are evaluated over time under the adaptive framework set forth in the *Second Notice*, there will be a need to maintain a record of which markets are subject to baseline, streamlined or nondominant treatment. This could be done by having each LEC maintain a market classification plan, in much the same way it maintains as zone pricing plans today. A filing to have a market declared competitive could then take the form of a revision

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[91] *SFNPRM* at ¶150.

to the market classification plan, with the competitive showing as the support material for the filing. These should be filed on 30 days notice.[92]

IV. THE COMMISSION SHOULD ESTABLISH A FRAMEWORK FOR DESIGNATING LECs AS NONDOMINANT WHEN THEY LACK MARKET POWER.

The *SFNPRM* seeks comment (at ¶154) as to whether the Commission should adopt rules in this proceeding that would define the conditions a LECs' service must meet in order to be considered nondominant. GTE urges the Commission to include nondominant treatment in its framework for many of the same reasons it supports the establishment of an adaptive framework for streamlined regulation.

In order to send efficient market signals to guide both incumbent LECs and potential market entrants in their investment and entry decisions, it is important for the Commission to establish, in advance, clear ground rules under which regulation will be determined. This will allow all market participants to base their decisions on reasonable expectations concerning what the Commission will do. Further, while the conditions supporting nondominance will of course be stricter than those for streamlining, the Commission should not prejudge whether any access market would meet those conditions in the near future.

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[92] Once the change in classification has been approved, the LEC would make an administrative filing to reflect the change in its tariff.

As the *SFNPRM* notes (at ¶156), the Commission previously has applied the criteria established in the *Competitive Carrier* proceeding[93] to determine whether carriers should be considered nondominant. To date, nondominance has been determined in the domestic market as a whole. This determination has generally been made on a category basis, *e.g.*, resellers, DOMSATs, affiliates of Independent LECs, or market basis, *e.g.*, access, interexchange. However, AT&T was treated separately for interexchange service and was recently found to be nondominant.

In the *Fourth Competitive Carrier* decision, the Commission found that non-RBOC, *i.e.* Independent, LECs could provide interexchange services on a nondominant basis under certain conditions.[94] Thus, only access services provided by the LECs and certain interexchange services provided on a facilities basis by the LECs remain dominant. GTE strongly endorses proposals to

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[93] *In the Matter of Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor,* First Report and Order, 85 F.C.C. 2d 1 (1980). (*subsequent citations omitted*)

[94] Domestic, interstate, interexchange resellers affiliated with independent exchange telephone companies were made subject to forbearance, while facilities-owning domestic, interstate interexchange carriers affiliated with Independent exchange telephone companies were placed under streamlined regulation. *In the Matter of Policy and Rules Concerning Rates for Competitive Common Carrier Services and Facilities Authorizations Therefor,* Fourth Report and Order, 95 F.C.C. 2d 554, 575 (1985). ("*Fourth Competitive Carrier*") No such finding was made with regard to the Regional Bell Companies ("RBOCs). Some RBOCs have filed petitions requesting that they be found nondominant in certain markets under the *Competitive Carrier* criteria. *See, e.g.*, Ameritech Communications, Inc. Petition for Nondominant Status, filed July 21, 1995.

reclassify those LEC services which have not already been found to be nondominant which meet the *Competitive Carrier* test.

The *SFNPRM* proposes (at ¶153) to allow a LEC to be regulated as nondominant with respect to a particular service or geographic market. GTE strongly supports this proposal. GTE also urges the Commission to take the following steps in this proceeding. First, the Commission should determine that a LEC will be considered nondominant in any new geographic market it may enter outside its traditional serving area. Second, the Commission should develop criteria for nondominance recognizing that nondominant treatment would complete the Commission's "three-part framework for our adaptive price cap regulation."[95] This would establish clear ground rules for LECs to follow when they seek nondominance in particular markets. It would also reduce uncertainty for both the LECs and their competitors as to how regulation will be reduced as competition develops. Finally, by simplifying and regularizing the process as much as possible, a clear framework will reduce the administrative burden on the Commission.

A. The Commission should adopt a framework which is an extension of that developed for streamlining.

GTE proposes that the framework for assessing nondominance should be based upon the framework outlined *supra* for streamlining. The underlying economic analysis is the same; the difference is one of degree.

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[95] *SFNPRM* at ¶152.